

***** NOT FOR PUBLICATION *****

NO. 23891

IN THE SUPREME COURT OF THE STATE OF HAWAII

GREGORY BARNETT, Appellant-Appellant

vs.

CLAYTON FRANK, in his official capacity as INSTITUTIONS DIVISION
ADMINISTRATOR, DEPARTMENT OF PUBLIC SAFETY, STATE OF HAWAII,
Appellee-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 97-0202)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Appellant-appellant Gregory Barnett (Barnett) appeals from the August 24, 2000 order of the circuit court of the first circuit, the Honorable Eden Elizabeth Hifo presiding, denying Barnett's motion for reconsideration of an order denying Hawai'i Rules of Civil Procedure (HRCP) Rule 60(b)(3) relief from a final judgment dismissing his appeal of a disciplinary decision of the Department of Public Safety (DPS) for lack of jurisdiction. On appeal, Barnett argues that the circuit court erred in (1) holding that it lacked jurisdiction to review DPS's disciplinary decision, (2) denying his motion for reconsideration of the circuit court's order dismissing his appeal, (3) denying his motion for relief under HRCP Rule 60(b), and (4) denying his motion for reconsideration of the denial of his motion for relief under HRCP Rule 60(b).

Upon carefully reviewing the record and the briefs submitted and having given due consideration to the issues raised and arguments advanced, we hold that the circuit court did not abuse its discretion in denying Barnett's motion for

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reconsideration of the order denying his motion for relief from judgment, inasmuch as Barnett did not present new evidence or arguments that could not have been presented in his earlier motion for HRCF Rule 60(b) relief from judgment. See Amfac, Inc. v. Waikiki Beachcomber Inv. Co., 74 Haw. 85, 839 P.2d 10 (1992); see also Gossinger v. Association of Apartment Owners of Regency of Ala Wai, 73 Haw. 412, 835 P.2d 627 (1992). We, however, lack jurisdiction to review (1) the April 20, 2000 judgment, and (2) the June 6, 2000 order denying Barnett's motion for HRCF Rule 60(b) relief. See Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(a)(1); First Trust Co. of Hilo v. Reinhardt, 3 Haw. App. 589, 655 P.2d 891 (1982); Wright, Miller & Kane, Federal Practice and Procedure, Civil 2d § 2871 at 424 (1995).

Therefore,

IT IS HEREBY ORDERED that the circuit court's August 24, 2000 order denying Barnett's motion for reconsideration of the order denying his motion for HRCF Rule 60(b) relief from judgment, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, July 26, 2004.

On the briefs:

Gregory Barnett
appellant-appellant
pro se

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for the appellee-appellee